

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
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Barton P. BARRY, <i>et al.</i>)	Confirmation Number: 8639
)	
Application Number: 09/391,460)	Examiner: Frantzy Poinvil
)	
Filed: September 8, 1999)	
)	
Group Art/TC 3628)	
)	
For: Financial Advice and Strategy System)	

MAIL STOP - Appeal Brief - Patent

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Sir:

Appellants submit this reply brief under 37 C.F.R. § 41.41. This brief respond to the Examiner's Answer mailed September 26, 2006. In the event of any fees are determined by the U.S. Patent and Trademark Office to be due, please charge any such fees to the undersigned's Deposit Account No. 50-0206.

Status of Claims begin on page 2;

Grounds of Rejection begin on page 3;

Argument begins on page 4.

STATUS OF CLAIMS

Claims 1-15 are pending and stand rejected. Claim 16 is cancelled. The rejections of claims 1-15 are appealed.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The issue on appeal is generally whether the teaching of the applied references is properly combined to render obvious the subject matter of the pending claims. Specifically, appellants request review of the rejections of claim 1-15 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,315,196 (Bachman) in view of Lee A. Spirer, *When "bad" credit behavior becomes the norm*, Credit World, Jul./Aug. 1997, Vol. 85, Iss. 6 at 18 (Spirer).

ARGUMENT

The Appeal Brief filed June 16, 2006, set forth critical errors in the Final Rejection mailed October 6, 2005. The Grounds of Rejection set forth in the Examiner's Answer is a verbatim copy of the rejections set forth in the October 6, 2005, Office Action. The Appeal Brief addresses the Grounds of Rejection set forth by the Examiner. This reply supplements the Appeal Brief by addressing the Examiner's Response to Argument set forth in the Examiner's Answer.

The claims are generally directed to systems and methods for providing negotiation advice for dealing with an individual who is delinquent on a debt obligation. For example, as disclosed in the specification, the system and method is useful for customer service representatives who must negotiate with credit cardmembers whose accounts have become delinquent. In general, the system and method provides a mechanism for the customer service representative to classify the financial situation of the debtor. More information is obtain related to that financial situation. Negotiation advice regarding alternative payment options is generated and provided to the customer service representative. A fundamental error with the rejection of appellants' claims is that the applied references do not address the generation and provision of negotiation advice to customer service representatives. The applied references thus do not teach or suggest each limitation of appellant's claims.

The primary reference to Bachman is not applied to show or suggest a system for negotiating with a cardholder that is delinquent on a credit account. Answer p. 12. The secondary reference to Spirer is applied for this teaching. *Id.* Spirer is a brief article from the journal "Credit World" that points out benefits for financial institution creditors who adjust their collection practices. Spirer provides examples of how different debtors might be treated. However, Spirer provides no details regarding how a customer representative is provided with tools for negotiating with an individual delinquent debtor.

Spirer refers to a cardholder with a history of delinquencies on multiple cards as one type of debtor. Spirer states:

With this debtor, creditors should skip the step of friendly reminders - the customer has heard them all before. A more innovative approach might be to negotiate for a quick lump sum settlement of less than the outstanding balance, or offer a matching gift program: Make two payments and we'll make the third.

Spirer p. 2. Spirer provides no details regarding how a customer service representative is guided to choose to negotiate for a quick lump sum settlement. Further, Spirer provides no details regarding how a customer service representative might receive advice for conducting such a negotiation. Spirer generally recognizes that negotiation should take place, but provides no specific details regarding how to guide the customer service representative that conducts the negotiation.

Spirer recognizes: "Not all cardholders are alike, and therefore collections practices should be adjusted accordingly." Spirer p. 2 The Examiner asserts: "From this passage, providing different questions to different customers is clearly suggested so as to collect from different group [sic] of customers in a different manner." Answer p. 11. The Examiner overstates the teaching of Spirer. The cited passage does not provide any details regarding how to group delinquent cardholder or how to obtain the information required to group delinquent cardholder. There is no teaching or suggestion to provide different questions to different customers. To the contrary, Spirer merely sets forth the general concept that different collection practices should be applied to different types of cardholders.

The details of the claimed system and method for negotiating with an individual delinquent on a debt obligation is not found in the applied references or knowledge of one of ordinary skill in the art. Spirer does not teach or suggest a system or method for negotiating with a delinquent individual. To the contrary, Spirer simply advocates that creditors adjust collection practices based on the application of behavioral science. The details of the claimed system and method can only be gleaned from the appellants' specification.

1) Lack of Motivation to Combine Applied References

A) Lack of Motivation to Combine Bachman and Spirer

Appellants maintain that no motivation is found in the applied art or within the knowledge of one of ordinary skill in the art to combine the teaching of Bachman and Spirer as suggested by the Examiner.

The applied references address fundamentally different problems. Spirer is a brief article that notes that behavioral scientists can provide insight that have resulted in new collection strategies. Bachman, on the other hand, is directed to a credit protection program.

[T]he credit protector allows a cardmember to pay a fee, for example, of about 49 cents per \$100 in average outstanding balance. The cardmember pays in a fee charge each month. Under the method of the present invention, if, during any that the cardmember is in the program, the cardmember becomes involuntarily unemployed, disabled, hospitalized, or takes family leave, the cardmember can activate the benefit of the program for the enrolled credit card. In activating the benefit, the cardmember's account is frozen, and the cardmember does not have to pay any interest, any fees, or pay the institution extending the credit any of the balance of the credit for the time that the cardmember has activated the benefit.

Bachman col. 2, ll. 6-20. In Bachman, the cardmember, pays for the ability to defer payments during a time of financial hardship. The cardmember, thus, does not become delinquent. The credit protection program of Bachman "is available only to cardmembers who are in good standing." Bachman col. 7, ll. 13-14. Bachman does not address recovery of debts from a delinquent cardmember. Thus, Bachman is a patent that is directed to system for debt *deferment* for credit cardmembers. The brief article of Spirer addresses debt *recovery* tactics for creditors. One of ordinary skill in the art would recognize that dealings with a cardmember in good standing that has paid for credit protection will be approached differently from dealings with a delinquent cardmember.

The Examiner asserts: "Since Bachman includes a plurality of reasons or scenarios as to why a customer may become delinquent, the verification process would have been to query the customer regarding their medical, financial or employment status." Answer p. 10. The Examiner misreads Bachman. The customer in Bachman remains on good terms with the creditor through payment of a fee. Should the cardmember become delinquent, the Bachman system simply cancels the cardmember's enrollment in the program. Bachman, col. 9, ll. 50-54. The Bachman system does *not* deal with a customer that becomes delinquent.

Based on the erroneous position that Bachman teaches questioning a delinquent customer, the Examiner asserts: "[O]ne of ordinary skill in the art would have turned to the teaching Spirer for the guidance in questioning a customer that is in default of payment." The Examiner is incorrect. For the reasons set forth above and in the Appeal Brief, there is no suggestion to modify Bachman to question a customer that is in default of payment. There is

thus no suggestion or motivation to combine the teachings of Spirer with the teachings of Bachman.

B) Failure of Prior Art to Suggest Claimed Graphical User Interfaces

Appellants maintain that there is no suggestion that anyone of ordinary skill in the art had any desire to introduce either a first or second graphical user interface (GUI) as set forth by the claims into the teachings of either Bachman or Spirer.

The Examiner first notes that the Bachman teaches a graphical user interface. Answer p. 11. The Examiner is incorrect. The Examiner refers to figures 4, 7, 10, 11 and 13 of Bachman. None of these figures show or suggest a graphical user interface. Figure 4 “is a table which illustrates the categories of enrollment or cancellation information transmitted by the credit protector system to the administrator.” Bachman col. 7, ll. 52-54. Figure 7 “is a table which demonstrates the categories of items included in the fulfillment kit automatically sent by the administrator to the newly enrolled cardmember.” Bachman col. 8, ll. 10-12. Figure 10 “is a table which demonstrates the categories of information 216 about the cardmember’s credit protection status tracked by the financial institution.” Bachman col. 12, ll. 42-44. Figure 11 “is a table which demonstrates the various reason codes 236 utilized in tracking the status of the cardmember’s deferment benefits.” Bachman col. 12, ll. 55-57. Figure 13 “is a table illustrating the categories of information 250 by which the cardmember’s credit account is tracked.” None of these figures teach or suggest a graphical user interface as asserted by the Examiner. Bachman does teach a graphical user interface.

The Examiner makes the uncontroversial statement that “the use of graphical user interfaces was well known and applied at the time of appellant’s invention.” Answer p. 11. From this general assertion the Examiner concludes: “The use of graphical user interface [sic] with descriptive icons representing one or more financial situations and questions related to strategies for addressing the financial situation represented by the selected one of the descriptive icons would have been obvious to one of ordinary skill in the art to do in order to provide users with the required information at a glance.” Answer pp. 11-12. There is no support for the Examiner’s specific conclusion. That the use of graphical interfaces was well known is insufficient to suggest the modification of the teaching Bachman or Spirer to include the specific graphical user interfaces set forth in appellant’s claims. The only teaching or suggestion of graphical user interfaces with descriptive icons representing one or more financial situations and

questions related to strategies for addressing the financial situation represented by the selected one of the descriptive icons is found in appellants' specification. The Examiner has merely compiled various references with various elements of the invention set forth in the instant application. Without appellant's specification as a guide, there is no suggestion or motivation to combine these teaching relied upon by the Examiner in a manner that arrives at the claimed invention.

C) Conclusion

Appellants respectfully submit that for the above reasons and the reasons set forth in the Appeal Brief the applied combination of Bachman in view of Spirer is improper.

2) Independent Claim 1 and Claims Depending Therefrom

A) Claim 1

The Examiner does not address the specific arguments regarding claim 1 set forth in the Appeal Brief. Appellants maintain that claim 1 is patentable over Bachman and Spirer for the reasons set forth above and in the Appeal Brief.

B) Claim 3

Claim 3 sets forth that the negotiation advice includes advice for interacting with an individual in the particular financial situation determined by the selections made from the first and second GUIs set forth in claim 1. In the Appeal Brief, appellant sets forth the reasons that the cited portions of Bachman and Spirer fail to teach or suggest the limitations of claim 3. As the Examiner does not address Bachman in the Answer, it now appears that the Examiner is not relying on Bachman to teach or suggest the limitations expressly set forth in dependent claim 3. The Examiner overstates the teaching of Spirer. "Spirer at page 2 discloses determining the reasons a creditor [sic] became a delinquent creditor [sic] and implementing a negotiation process.¹" Answer p. 13. The Examiner's statement fails to explain how the claim limitations are obvious.

¹ Throughout the Answer's Response to Argument, the Examiner refers to a delinquent creditor. Appellants assumes that this is an error and that the Examiner intended to refer a delinquent debtor.

Spirer discloses determining reasons creditors become delinquent across many accounts. “Behavioral data on individual accounts is collected and combined to develop mathematical models for individual customer segments.” Spier p. 2. Spier is silent regarding how this data would be used to inform a customer service representative negotiating with an individual delinquent debtor. Spier does not teach or suggest how to implement a negotiation process as asserted by the Examiner. Claim 3 sets forth advice for interacting with an individual in a particular financial situation. Spier is silent regarding any such advice.

For these reasons and the reasons set forth in the Appeal Brief, Bachman in view of Spier fails to teach or suggest the limitations of claim 3.

C) Claim 4

The Examiner appears to misconstrue claim 4. Claim 4 is directed to an interface of a system that provides negotiation advice to a customer service representative. Claim 4 sets forth that a second graphical user interface (GUI) displays predetermined answers to questions related to strategies for addressing a financial situation. The Examiner asserts: “[T]he system of Bachman and the teachings of Spier [sic] cannot make a determination without a question/answer session with the creditor [sic].” Answer p. 14. The Examiner assertion is irrelevant and incorrect. That a question and answer session may be conducted with a debtor does not suggest the graphical user interface set forth by claim 4.

Furthermore, neither Bachman nor Spier teach or suggest such a question and answer session as asserted by the Examiner. The Examiner asserts: “[B]oth Bachman and Spier disclose determining with the creditor [sic] the reason the creditor [sic] becomes delinquent by using an interactive session.” Answer p. 14. However, as discussed above the Bachman system does *not* deal with delinquent account holders. The Examiner cites to column 11, lines 11-50 of Bachman to support the rejection of claim 4. This passage is directed to verification of the event that triggers the debt deferment of the Bachman system. There is no suggestion in this passage of a graphical user interface (GUI) that displays predetermined answers to questions. The Examiner asserts: “Spirer also discloses determining whether it is a divorce or job loss that cases [sic] a creditor [sic] to become delinquent.” Answer p. 14. However, Spier includes no discussion regarding how to make such a determination.

As set forth in the Appeal Brief, neither Bachman nor Spier teach or suggest a GUI that displays predetermined answers to questions.

D) Claim 5

Claim 5 depends from claim 1 and sets forth further details of the second GUI. Claim 5 sets forth that the second GUI comprises a panel for displaying the advice and a panel for displaying the questions. As pointed out in the Appeal Brief, the applied references do not show or suggest these details. The Examiner refers to generic arguments regarding a GUI. Answer p. 14. The Examiner's arguments are insufficient to support rejections of claim 5. The Examiner points to no teaching or suggestion of the specific details of the second GUI set forth by claims 5.

E) Claim 6

Claim 6 also depends from claim 1 and sets forth further details of the second GUI. Claim 6 sets forth that the second GUI comprises buttons for selecting the answers. The Examiner responds to appellants' arguments regarding claims 5 and 6 in a single common paragraph. This identical treatment of claims 5 and 6 demonstrates that the Examiner has failed to consider the particular limitations of these claims. The Examiner points to no teaching or suggestion of the specific details of the second GUI set forth by claim 6.

F) Claim 7

Claim 7 sets forth that the second GUI comprises means for specifying the type of the advice generated by the system. The Appeal Brief challenges the Examiner's reliance on Bachman to show the limitations of claim 7. The Examiner now asserts that Spirer teaches specifying advice to a delinquent customer. Answer p. 14. First, the Examiner misconstrues appellants' claims. Claim 1 and claim 7 depending therefrom set forth a system for providing negotiation advice to a customer service representative. The Examiner's assertion that Spirer teaches specifying advice to a delinquent customer is moot. Furthermore, the Examiner's assertion is unsupported. The Examiner refers to page 2 of Spirer. But nowhere on page 2 of Spirer is there any teaching or suggestion to specify a type of advice generated by any system. The Examiner further asserts that means for specifying advice is enabled when combined with the system of Bachman. Answer p. 14. The Examiner fails to explain how the teaching of Spirer could be used to modify the system of Bachman to arrive at the subject matter of claim 7.

3) Independent Claim 8 and Claims Dependent Therefrom

A) Claim 8.

Appellants maintain that the Examiner has failed to set forth a *prima facie* case of obviousness against claim 8 for the reasons set forth above and in the Appeal Brief. The Examiner fails to address the steps of the method of claim 8. In the Appeal Brief, appellants addressed specific steps of claim 8 that are not taught or suggested by the applied references. The Examiner does not directly address appellants' arguments. Rather, the Examiner again relies on the general teaching of Spirer that a financial institution should adjust its collection practices. Answer pp. 14-15. The Examiner does not show how the applied references teach the steps of retrieving strategy data in response to the selection of a descriptive icon, displaying a second GUI, where one or more question corresponding to the strategy data are displayed, retrieving negotiation advice or displaying negotiation advice. The Examiner merely establishes that Spirer states that an approach for a particular debtor "might be to negotiate for a quick lump sum settlement of less than the outstanding balance or offer a matching gift program." Answer p. 15, quoting Spirer p. 2. The Examiner extrapolates from the basic concept set forth by Spirer, to arrive at the specific method set forth by claim 8. The only teaching setting forth an actual method to adjust collection practices is found in appellants' disclosure. The Examiner fails to establish how Bachman in view of Spirer teaches or suggests the details of the method of claim 8.

B) Claim 9

The Examiner has failed to set forth a *prima facie* case of obviousness against claim 9 for the reasons set forth above and in the Appeal Brief. Claim 9 sets forth that the negotiation advice includes advice for interacting with an individual. The Examiner does not set forth how either Bachman or Spirer show or suggest negotiation advice for interacting with an individual.

C) Claim 10

The Examiner has failed to set forth a *prima facie* case of obviousness against claim 10 for the reasons set forth above and in the Appeal Brief. Claim 10 sets forth the step of displaying multiple answers to each of the questions. The Examiner does not set forth how either Bachman or Spirer show or suggest displaying multiple answers to questions.

4) Claims 11-15

Appellants maintain that claim 11-15 are each patentable over Bachman in view of Spirer for the distinct reasons set forth in the Appeal Brief. The Examiner does not address the specific claim limitations of claims 11-15. The Examiner asserts that the appellants' arguments regarding claims 11-15 rehash arguments pertaining to claim 1. Answer p. 16. The Examiner thus provides no response to the specific arguments in the Appeal Brief with regard to claims 11-15. The Examiner's has failed to establish that each limitation of claims 11-15 is shown or suggested by Bachman in view of Spirer. The Examiner's reliance on general the concept of Spirer that collection practices should be adjusted is insufficient to show or suggest the method of negotiating with an individual set forth by claims 11-12 or the system for providing negotiation advice of claims 13-15. The Examiner has failed to address the particular limitations of these claims.


5) Conclusion

Appellants respectfully submit that the rejections of the pending claims as being unpatentable over Bachman in view of Spirer should be reversed for the reasons set forth above and in the Appeal Brief. The Examiner misconstrues the primary reference to Bachman as system that questions a customer as to why the customer may become delinquent. The Examiner impermissibly extrapolates the specific details of appellants' claimed invention from the basic concept of the Spirer article. The Examiner fails to address numerous limitation of the claims. For at least these reasons, the Examiner has failed to establish a *prima facie* case of obviousness of appellants' claims. Appellants respectfully request that the rejections of claims 1-15 as being unpatentable over Bachman in view of Spirer be reversed.

Respectfully submitted,

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